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P R O C E E D I N G S

DEPARTMENT OF LABOR AND INDUSTRIES  
PUBLIC HEARING  
ERGONOMICS

Labor and Industries Building  
7273 Linderson Way Southwest  
Room S117-S118  
Tumwater, Washington

DATE: January 14, 2000

REPORTED BY: Paula Somers, CSR  
CSR NO.: SO-ME-RP-L535N2

PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1 DEPARTMENT OF LABOR AND INDUSTRIES STAFF IN ATTENDANCE:

2

3 MR. TRACY SPENCER - Hearings Officer, Standards Program  
4 Manager

5 MS. GAIL HUGHES - Hearings Officer, Senior Program Manager

6 MR. MICHAEL WOOD - Hearings Officer, Senior Program Manager

7 MR. JOSH SWANSON - Administrative Regulations Coordinator

8 MS. JENNY HAYS - Safety & Health Specialist

9 MR. RICK GOGGINS - Ergonomist

10 MR. JOHN PEART - Industrial Hygienist

11 DR. MICHAEL SILVERSTEIN - Assistant Director for Workplace  
12 Safety and Health

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3	<u>OPENING COMMENTS &amp; PRESENTATION BY:</u>	
4	Mr. Tracy Spencer . . . . .	4
5	* * *	
6	<u>ORAL COMMENTS BY:</u>	
7	Ms. Louise Kaplan . . . . .	7
8	Mr. Russ Walpole . . . . .	10
9	Mr. Tim Flumerfelt . . . . .	12
10	Ms. Kristine Kraig . . . . .	17
11	Mr. Terry Vann . . . . .	23
12	Mr. Tyler Bass . . . . .	25
13	Ms. Catherine Dresow . . . . .	26
14	Ms. Natalie Patch . . . . .	27
15	Mr. Keith Lile . . . . .	29
16	Mr. Dave Parker . . . . .	30
17	* * *	
18		
19	<u>CLOSING COMMENTS BY:</u>	
20	Mr. Tracy Spencer . . . . .	31
21	* * * * *	
22		
23		
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PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1 SEATTLE, WASHINGTON; WEDNESDAY, JANUARY 14, 2000

2 7:00 P.M.

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6 THE ASSEMBLY OF THE PUBLIC HEARING, regarding Ergonomics,

7 convened, Mr. Tracy

8 Spencer and Ms. Gail

9 Hughes, presiding:

10

11 \* \* \* \* \*

12 O P E N I N G C O M M E N T S

13 A N D P R E S E N T A T I O N

14 MR. SPENCER: Good evening, ladies and  
15 gentlemen. I now call this hearing to order. This is a  
16 public hearing being sponsored by the Department of Labor  
17 and Industries. I am Tracy Spencer, the Standards Manager,  
18 and this is Gail Hughes, Senior Program Manager, of WISHA  
19 Services. We are here representing Gary Moore, the Director  
20 of the Department of Labor and Industries as the hearings  
21 officers.

22 For the record, this hearing is being held January  
23 14th, in Tumwater, Washington, beginning at 7:05 p.m., as  
24 authorized by the Washington Industrial Safety and Health  
25 Act and the Administrative Procedures Act.

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1                   If you've not already done so, please fill out a  
2                   sign-in sheet, located at the back of the room. This sheet  
3                   will be used to call forward individuals for testimony and  
4                   to ensure hearing participants are notified of the hearing  
5                   results.

6                   For those of you who have written comments that  
7                   you'd like to submit, please give them to Jenny Hays or Josh  
8                   Swanson at the back table. We will accept written comments  
9                   until 5:00 p.m. on February 14th, 2000 for those unable to  
10                  submit comments today.

11                  Comments may be mailed to the Department of Labor  
12                  and Industries' WISHA Services Division at P.O. Box 44620,  
13                  Olympia, Washington 98504; emailed to [ergorule@lni.wa.gov](mailto:ergorule@lni.wa.gov) or  
14                  faxed to area code (360) 902-5529. Comments submitted by  
15                  fax must be 10 pages or less. The addresses and phone  
16                  numbers that I just gave you are also in the packet of  
17                  information that you picked up on your way in.

18                  The court reporter for this hearing is Paula  
19                  Somers of Starkovich Reporting. Transcripts of the  
20                  proceeding should be requested and are available from the  
21                  court reporter. Also, copies of the transcripts will be  
22                  available on the WISHA homepage in approximately three  
23                  weeks.

24                  Notice of this hearing was published in the  
25                  Washington State Register both on December 1st, 1999 and

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1 December 15th. Hearing notices were also sent to interested  
2 parties. In accordance with the RCW, notice was also  
3 published 30 or more days prior to this hearing in the  
4 following newspapers: The Journal of Commerce, the  
5 Spokesman Review, The Olympian, The Bellingham Herald, The  
6 Columbian, the Yakima Herald-Republic, and the Tacoma News  
7 Tribune.

8 This hearing is being held to receive oral and  
9 written testimony on the proposed rules. Any comments  
10 received today, as well as written comments, will be  
11 presented to the Director.

12 Prior to starting the formal hearing, an  
13 oral summary of the proposed rule was given and a  
14 question-and-answer period occurred. Please refer to the  
15 handout provided to you at the door for a copy of the  
16 proposed rules.

17 In order to evaluate the potential economic impact  
18 of the proposed rule on small business, the department  
19 completed a Small Business Economic Impact Statement in  
20 accordance with the Regulatory Fairness Act.

21 For those of you who have given oral testimony at  
22 a previous hearing, you will be called upon after all new  
23 testimony has been given, provided time permits. Please  
24 limit your testimony to 10 minutes, so we can all hear the  
25 testimony. If you don't need 10 minutes, that's okay, too.

1                   Please remember this is not an adversarial  
2                   hearing. There will be no cross-examination of the  
3                   speakers; however, the hearings officers may ask clarifying  
4                   questions. In fairness to all parties, I ask your  
5                   cooperation by not applauding or verbally expressing your  
6                   reaction to the testimony being presented. If we observe  
7                   these rules, everyone will have the opportunity to present  
8                   their testimony and help the Director to consider all  
9                   viewpoints in making a final decision.

10  
11                   \* \* \* \* \*

12                   O R A L   T E S T I M O N Y

13                   At this time we will take oral testimony. I'll  
14                   call you up a couple at a time to facilitate the time; and  
15                   please identify yourself, spell your name, and identify who  
16                   you represent for the record.

17                   Laura [sic] Kaplan, Russ Walpole, and Tim  
18                   Flumerfelt.

19                   MS. KAPLAN: Good evening. My name is Louise  
20                   Kaplan, L-o-u-i-s-e K-a-p-l-a-n.

21                   I'm a registered nurse and a family nurse  
22                   practitioner, and I am here representing the Washington  
23                   State Nurses Association. WSNA is both a professional  
24                   association and a union representing the health policy  
25                   nursing practices and workplace concerns of more than 11,000



1       RNs in the state of Washington, the majority of whom work in  
2       hospitals, nursing homes, and home-health agencies. I am  
3       here to testify in support of the new ergonomics rule  
4       proposed by the Department of Labor and Industries.

5               I've been a registered nurse for 25 years and a  
6       family nurse practitioner 19 of those years. I have been  
7       very fortunate that in lifting patients during the years I  
8       worked in hospitals, I have not suffered a debilitating back  
9       injury.

10              Unfortunately, I do know many nurses who have  
11       sustained career-ending back injuries and other work-related  
12       musculoskeletal disorders. In fact, it is often the  
13       cumulative experience of lifting and working in the  
14       workplace that leads to these career-ending injuries, rather  
15       than any one specific event.

16              Back injuries and other ergonomic injuries are the  
17       most common work-related injuries suffered by registered  
18       nurses in all settings and account for untold pain and  
19       suffering, hundreds of thousands of dollars in medical care,  
20       and thousands of hours of lost work and time.

21              In addition, in my experience as a family nurse  
22       practitioner, I have evaluated many patients who have  
23       experienced back injuries and other work-related  
24       musculoskeletal disorders from work in a variety of  
25       industries.

1                   Registered nurses and other nursing personnel,  
2                   especially those working in state hospital facilities,  
3                   nursing homes, and home-health settings, where assisted  
4                   lifting devices and support staffing are often in short  
5                   supply, are particularly vulnerable. WISHA's own statistics  
6                   identify state hospital facilities and nursing homes among  
7                   the top 20 employment settings for incidents of back  
8                   injuries in Washington state.

9                   WSNA believes that WISHA's proposed rule is a  
10                  much-needed step in the right direction and is far better  
11                  than the proposed national OSHA standard in that it takes a  
12                  preventive approach to addressing the problem of  
13                  work-related musculoskeletal injuries rather than levying  
14                  citations and fines after the fact.

15                  We believe that the phase-in period included in  
16                  the implementation plan is more than generous, and, in fact,  
17                  should be tightened. The advantage of a phase-in period,  
18                  however, allows for the development of what is truly needed.

19                  An industry-wide prevention program that includes  
20                  data driven employer guidelines and education to support  
21                  compliance with the proposed OSHA and NIOSH ergonomic  
22                  standards, standardized guidelines for lifting and  
23                  transferring patients, training for managers and healthcare  
24                  personnel on proper technique, use and maintenance of  
25                  equipment, and access to appropriate assistive devices;

1        additionally, continued research that demonstrates the  
2        effectiveness of such prevention programs in ongoing  
3        development and evaluation of other strategies is needed .

4                While some employers may argue that it is  
5        unnecessary and costly to implement this program, I would  
6        like to argue that it is more costly for the workers in the  
7        state and the citizens of Washington if we do not implement  
8        this program. Nurses who care for the most ill and  
9        vulnerable among us deserve the protection of this important  
10       ergonomic standard.

11               In conclusion, on behalf of all registered nurses  
12       in this state, I would like to applaud the Department of  
13       Labor and Industries for the proposed rule. Workers in  
14       Washington are entitled to a safe working environment, and I  
15       thank you for this opportunity to speak tonight.

16               MR. SPENCER: Thank you.

17               MR. WALPOLE: My name is Russ Walpole,  
18       W-a-l-p-o-l-e, and I'm a business agent for the King-Pierce  
19       Local 378, located here in Olympia, Washington.

20               I sat through the one o'clock public meetings  
21       today and listened to testimony from both the employer  
22       representation and labor representation. As I listened, I  
23       became aware of two different campaign styles. From those  
24       representing the employer, I heard a lot of negative  
25       campaigning with many shots at L&I. From the labor or

1 employee side, I heard testimony to indicate the positive  
2 aspects of ergonomics.

3 I believe if you are giving testimony or saying  
4 something you believe in and you know in your heart is  
5 right, you do not use negative campaigning to make your  
6 point; rather, you utilize the power of positive testimony.

7 I believe that there is a high probability that  
8 everyone in this room knows at least one person, and  
9 probably more, who has suffered workplace injuries. I  
10 personally know several people with musculoskeletal  
11 problems. I have a brother-in-law who until recently was a  
12 timber feller. Now because of back problems, he's had to  
13 sell his saws, and he can no longer fell trees.

14 I've worked many years in the beer and wine  
15 distributing business, and I have seen many people have to  
16 leave their jobs because of work-related injuries, mostly  
17 back problems. All these people that I have seen who were  
18 forced to leave their profession because of work-related  
19 injuries have been proud of their work ethics and  
20 competitive by nature. It was a loss to their former  
21 employer to lose such good employees.

22 And as I stated, I applaud the ergonomics and  
23 respect what you're trying to do for the hardworking  
24 employees.

25 MR. SPENCER: Thank you.

1                   MR. FLUMERFELT: My name is Tim Flumerfelt;  
2                   that's F-l-u-m-e-r-f-e-l-t. Perhaps it's obvious I drive  
3                   for UPS.

4                   I've brought along my little friend here. This is  
5                   a constant companion of mine. You see, it's got some wear  
6                   and tear on it. It goes everywhere with me, and there's a  
7                   reason for that. I have had two injuries on two different  
8                   occasions, resulting in two bulging discs in my lower back.  
9                   And oddly enough, as you might expect it to be from lifting,  
10                  but, in fact, both of my injuries were because of shifting.

11                  Now, to be a little bit more specific here, I'll  
12                  dramatize perhaps a little. I don't know if I'm following  
13                  the rules here or not, doing like they're doing, but this is  
14                  the way I'm going to do it, if that's all right. There were  
15                  a number of contributing factors, all of them the truck. I  
16                  think the most important thing I want to point out is that  
17                  the shifter, when you reach over here to grab it, is too  
18                  low.

19                  Now, the company deliberately and purposefully cut  
20                  them off to make them shorter so you had less leverage to  
21                  cause less stress and strain in their eyes to the  
22                  transmission. But when you reach down here to shift and  
23                  you've got to bend down two inches to find it, it puts you  
24                  in an awkward position.

25                  Add to that the fact that the clutch pedal is

1 offset to the left - it's not straight in front at all; the  
2 pedals are offset to the left - so you're reaching this way,  
3 pushing down on an industrial-strength clutch pedal, which I  
4 assure you is -- I used to drive log truck, and I never  
5 drove a Kenworth that had a stiffer spring; and that's  
6 straight up.

7 So you're pushing this way, you're leaning down  
8 this way, and then if you happen to be turning, which on  
9 both occasions I was - no power steering - you've got this  
10 going on (indicating). Both times, the same type of a  
11 thing, the same result.

12 Let's talk about the seat. Incidentally, the  
13 information I'm highlighting is all written up in a work  
14 site evaluation. It was done by a physical therapist on my  
15 behalf, and if I might just reiterate here, clutch pedal  
16 left of center - I'm reading right off her sheet here - gear  
17 shift -- manual shift is lower than seat height; it's all  
18 right here.

19 There are actually pictures here which clearly  
20 demonstrate what I'm discussing, too. This here clearly  
21 shows how -- there's the pedal -- or the top of the gear  
22 shift knob, and you can see where the bottom of the seat is  
23 right there. It's lower than the bottom of the seat. On  
24 top of this piece of plywood that they call my seat is about  
25 a four-inch pad of foam rubber. So it's substantially lower

1       than where I'm sitting to get to it. And all that's all  
2       documented here.

3               But the seat, I would like to discuss briefly on that,  
4       also - another contributing factor, I believe - and that is,  
5       as I said, it's literally a piece of three-quarter inch  
6       plywood with a piece of foam over the top of it; and there's  
7       no springs; it is anchored solid; and there is no flex;  
8       there's no springs in the seat. There are no springs in the  
9       seat. Again, this is all documented here in the work site  
10      evaluation.

11              And I don't know if this is appropriate or not -  
12      stop me if it's not - but I'll tell you another thing: I  
13      overheard -- I actually with these ears overheard a mechanic  
14      supervisor telling a mechanic -- the mechanic asked, Why  
15      don't we put some air seats in these trucks for these  
16      people; why don't we upgrade -- or some seats that have some  
17      springs or some sort of upgrade.

18              His specific words were, Why don't we put air  
19      seats in these trucks for these people; and the supervisor,  
20      his supervisor said, and I quote, That's why we pay them the  
21      big money. In other words, they don't like it, too bad.

22              Okay. I will, in defense, if you will, or to  
23      balance the scale, there have been improvements in the most  
24      recent trucks. The most recent trucks we have had had  
25      improvements in the seats. But I can assure you right over

1       here 80 -- 90 percent, without exaggerating, I can say 90  
2       percent, clearly 90 percent of the trucks, have the plywood  
3       with a piece of foam over it that I just discussed. No  
4       problem. And that's also written up in here.

5               Okay, let's move on here. We talked about no  
6       power steering. There are some of the trucks that are now  
7       coming with power steering. Why are they doing this?  
8       They're doing this because they're seeing people like me get  
9       hurt, and they're saying, hey, maybe it's cheaper to do it  
10      with, you know, driver safety and comfort in mind.

11             And so I can see some improvements coming along,  
12      but we need laws, because without the laws, without the laws  
13      that make them pay when people get hurt, they're not going  
14      to do it. Now, I don't know if anybody else is surprised to  
15      hear that, but I have no question in my mind about that.

16             When I got hurt not once, but twice -- when I got  
17      hurt not once, but twice, resulting in two bulging discs --  
18      bulging discs make your leg go numb, and it tingles  
19      sometimes. Nerve pain is a strange thing. It's not muscle  
20      pain, because muscle pain you can rub out. Nerve pain, you  
21      just have to endure; it can't be rubbed out.

22             The point is this, when I had not one, but two  
23      bulging discs, I went to my bosses with six independent -  
24      this is one person's - six independent medical practitioners  
25      documenting what was wrong and why and how, all of them

1        substantiating the work site evaluations, six different  
2        medical practitioners.

3                    And do you know what I was told? File a  
4        grievance. And when I said, I'd like to think that after  
5        nearly 20 years somebody would say, one of our valued  
6        employees has been hurt; how can we help, what I was told  
7        was, file a grievance. I never filed a grievance in my  
8        life. I'm a union guy; I'm a cooperative guy.

9                    The first grievance I've ever filed in my entire  
10       lifetime, in my entire career of nearly 20 years with the  
11       company at that time, was over this, over not one, but two  
12       bulging discs that we could directly link to their vehicle.  
13       And they had not once, but twice, two opportunities, to  
14       figure it out; they chose not to. We need laws.

15                   I will say this is conclusion, I've been here  
16       20-1/2 years now. I carry this with me all the time; I'm  
17       real good at putting it back there; I don't even have to  
18       think about it. If it comes out, it goes on the dash; it  
19       comes -- I'm real comfortable with it. I do it all the  
20       time. It's my friend. It's what I have to live with all  
21       the time. In 20-1/2 years, I've been to one retirement  
22       dinner, and that man retired, and he told me, Tim, I'd  
23       better get out while I can still walk out.

24                   Thank you for your time.

25                   MS. HUGHES: You are giving us that in the

1       written --

2                       MR. FLUMERFELT: I believe you have it, but  
3       you're welcome to it.

4                       MS. HUGHES: No, that's fine. I just wanted  
5       to make sure.

6                       MR. FLUMERFELT: They do have it. Thank you  
7       again.

8                       MR. SPENCER: Thank you.

9                       Kristine Kraig and Terry Vann.

10                      MS. KRAIG: I'm Kristine Kraig,  
11       K-r-i-s-t-i-n-e, last name, Kraig, K-r-a-i-g; and I work for  
12       Social and Health Services, and have worked for them for  
13       approximately 27 years. Specifically, I've worked for the  
14       Division of Disabilities Determination Services for 17  
15       years, and I'm employed as a disability adjudicator, and I  
16       follow social security regulations, and we contract to the  
17       Social Security Administration, making medical decisions on  
18       people who apply for social security benefits through Social  
19       Security.

20                      In all these years, I've read so many claims  
21       coming in with carpal tunnel syndrome and back injuries, and  
22       a lot of the claims we get are actually Labor and Industries  
23       referrals because the people are -- Labor and Industries is  
24       trying to get an offset by sending them to the federal  
25       agency for benefits which are mostly permanent, once we put

1 a person on it's very unlikely that we'll ever get them off,  
2 but ...

3 So I have a lot of experience, 17 years of  
4 experience, looking at these types of claims where people  
5 come in and have all of the symptoms, but I never thought  
6 that I would be one of them. So I'm actually testifying  
7 from a personal level.

8 The last over two years I've been trying to get my  
9 employer to provide an ergonomic keyboard, and I need a  
10 split keyboard because, you know, I'm not a physician;  
11 however, I have enough experience to know that I was having  
12 carpal tunnel symptoms, and have gone to my doctor, have  
13 gone to a chiropractor, because in my line of work, Social  
14 Security Administration about a year ago decided that we're  
15 going to become a people-less entity. And so I utilize my  
16 computer in the performance of my work, and I'm on the phone  
17 a lot, talking to physicians, psychiatrists, ecologists, and  
18 claimants.

19 And I also asked for a headphone because I was  
20 having problems, cervical problems, and I was having to go  
21 to the chiropractor quite a bit to get my neck realigned,  
22 so that I could not have headaches, because it brings on  
23 real painful headaches for me. And so I had one a couple of  
24 years ago, and the thing died on me, and put in a request  
25 for another one, and unfortunately, the employer keeps

1 saying that they don't have the funding for it.

2 And I guess that was part of my question that I  
3 brought up earlier, is that if we're not going to have any  
4 sort of enforcement as far as meeting -- or giving some --  
5 giving state agencies the funding to give us the equipment  
6 we need to do the job, I don't know how any of us are going  
7 to benefit from it, because that's the excuse I've had for  
8 so long.

9 And my agency says, well, we're trying to get  
10 funding from Social Security Administration. We're kind of  
11 like the state agency that actually is 100 percent funded by  
12 the federal government, the wages are melded through the  
13 state system, and so therefore, we are state employees, but  
14 all our money comes from them. We have to have money  
15 appropriated from them. And they're saying that they don't  
16 have the funding for it. The state agency says they don't  
17 have the funding for it. And so I've been given the  
18 runaround for quite some time.

19 I brought a couple of doctors' statements that  
20 were dated April of '99 and May of '99. Unfortunately, I  
21 had earlier ones, but I had given them to the employer, and  
22 they cant seem to find them now. So, I've got these  
23 statements. I tried to -- I first went my chiropractor and  
24 asked for a statement, and she wrote one up; and then I took  
25 it into the agency.

1                   And they said, well, that's not a good enough  
2                   reason; you have to have a medical doctor give you the kind  
3                   of a statement that shows that you have this. And I said,  
4                   well, that's not true, because Labor and Industries bases a  
5                   lot of their decisions on claims by using a chiropractor, so  
6                   I don't know why that wouldn't be good enough for the state  
7                   employer. And they still disagreed.

8                   So I went to my regular family physician, and he  
9                   gave me a prescription for the needed item, which would be a  
10                  split keyboard and headphones and an ergonomically-correct  
11                  chair. And not until probably in the last three weeks has  
12                  the employer responded, and I said that I've kind of had it,  
13                  and I think I'm going to have to file a Labor and Industries  
14                  claim. And I've never done that in all my career.

15                  I've never felt like an employee, whether they  
16                  were a private employee or a state employee, should have to  
17                  beg for something that they need to perform their job. And  
18                  I think the most upsetting thing for me is that why should  
19                  we have to utilize grievances, because I am a union member?  
20                  But why should I have to go that route in order to get what  
21                  I need to perform my job and to be the best and most  
22                  productive employee that they have? You know, you don't  
23                  achieve that with somebody sitting there in discomfort.

24                  So, I guess I'm saying that I really believe that  
25                  we need standards. I would like to see them tightened up

1       for the state, at least. You know, private employers, I  
2       don't have an opinion on them because I have no knowledge.

3               But at least I've seen the workings of the state,  
4       and if they're allowed to get away with not meeting the  
5       needs, unless that person actually goes and files a Labor  
6       and Industries claim or is the squeakiest person around -- I  
7       know that I speak for a lot of my fellow employees. I have  
8       fellow employees that have carpal tunnel syndrome. They're  
9       wearing wrist guards because they have to in order to get  
10      their job done. I think that's pretty sad in this day and  
11      time that employees have to resort to, you know, begging for  
12      things that they need.

13             So I guess that's what I'd like to say. I would  
14      like to see this, but with further - at least for the  
15      state - to have further restrictions to not let them get  
16      more than the two-year time period, I believe is what we're  
17      looking at.

18             There may be another element within that to say,  
19      you know, for desk needs, you know, they need to shorten the  
20      time period for implementing them, and that's what I would  
21      like to see happen. I don't think that they should be  
22      allowed to say, okay, we've got a two-to-four year base in  
23      time period now, so we're not going to act on this until we  
24      have to, and then we'll try to work it in our budget.

25             I was told three weeks ago when I told them that I

1       was going to be filing, because I was told then that they  
2       would look into it. Lo and behold, I had a headset sitting  
3       on my desk yesterday, or the day before yesterday, and that  
4       just -- It appeared, and nobody talked to me or anything.  
5       They just showed up.

6               And supposedly, they've ordered the split  
7       keyboard, and I'd like to stay on that. I got a loaner to  
8       see if it would help my symptoms, and sure enough, they  
9       went, they were reduced, and I thought it was great.  
10      However, the person that loaned it to me needed it back  
11      because they were having the same symptoms; they just wanted  
12      to see if it would help me.

13             Today I went and had an EOG, an electromyography,  
14      performed, and it's not real pleasant. They poke needles in  
15      you and see your nerve conduction rate. And by golly, guess  
16      what? They found out I have carpal tunnel syndrome. They  
17      said it's mild to moderate at this time. And I should think  
18      that I would love to be able to get a split keyboard just so  
19      that I could reduce the symptoms and maybe not have anything  
20      further come of this, like surgery, which I don't want to  
21      have.

22             I just, again, think it's a real shame we're not  
23      treating our own people better, especially the state  
24      employees that, you know, work in a system that's governed  
25      by Labor and Industries.

1 Thank you.

2 MR. SPENCER: Thank you.

3 MS. KRAIG: You can have my doctor's things.

4 MS. HUGHES: Sure.

5 MR. VANN: My name is Terry Vann. I'm the  
6 executive vice president for the Washington Independent  
7 Telephone Association. We are a trade association of local  
8 telephone companies throughout the state. Our large members  
9 are CenturyTel, GTE, and Sprint. They operate, as I said,  
10 throughout the state with between 500 to 4,000 employees.

11 We have 17 company members who are small  
12 businesses - most of them are family-owned - in local  
13 communities, like Tenino, Toledo, Yelm, Union, Ellensburg,  
14 Klamath, Eatonville. Thirteen of them have between 1 to 30  
15 employees, and 4 of them have 31 to 100-plus employees.

16 We oppose this rule. We are very concerned that  
17 this rule is trying to lead the nation and set standards  
18 that have significant economic consequences to both large  
19 and small businesses, and it has unclear results that  
20 injuries are actually reduced. We have been very active in  
21 addressing the education and training related to back  
22 strain, tendinitis, and carpal tunnel syndrome.

23 We have relatively few injuries of this type in  
24 our industry. We do care about our employees, and we want  
25 to know that the actions that we're being asked to do and

1 spend money on will actually reduce those kinds of injuries.

2 We have concerns that this rule does not account  
3 for differences between industries. It does cost  
4 significantly more than what we've heard submitted as an  
5 estimate of \$32 per employee per year. We think that is  
6 significantly underestimated in light of our historical  
7 experiences with L&I enforcement and inspection costs.

8 We also think that it ignores nonwork injuries or  
9 prior work habits. We do provide basic education, employee  
10 involvement, and training. We have had experiences where  
11 we've changed furniture, changed the equipment, changed the  
12 work requirements, changed the break routines, yet the  
13 injuries still resulted because of off-work activity or  
14 previous injuries.

15 What kind of assessment in liability will be  
16 applied for those situations where employees are still  
17 continuing those kinds of activities, either off work or  
18 bringing injuries from prior jobs to this new job? We don't  
19 see how that's addressed in this rule, and we would like to  
20 see that that issue is addressed.

21 We are being asked to assess our workplace for  
22 caution jobs and to fix ergonomic hazards. We believe that  
23 is very unknown and very subject to interpretation. We  
24 support a pilot program. We think we've had a good  
25 experience and good help with giving information about what

1 p[REDACTED]h ORAL TESTIMONY/Mr. Bass

2 works, what doesn't work, what we've had to spend, and are  
3 very willing to help in that kind of program.

4 We would like to see language included in the rule  
5 that if the department identifies hazards not previously  
6 assessed by the employer's program, the inspector may not  
7 substitute its judgment for the employer's unless it can  
8 provide a workable and effective solution that is  
9 technically feasible, scientifically accepted, generally  
10 available, and economically feasible.

11 Thank you. That concludes my report.

12 MR. SPENCER: Thank you.

13 Catherine Dresow, Natalie Patch, Tyler Bass.

14 MR. BASS: Do you want us to speak in the  
15 order that you called us up here?

16 MR. SPENCER: It doesn't make any difference.

17 MR. BASS: I'll go ahead and go first then.

18 My name is Tyler Bass; last name is spelled  
19 B-a-s-s. I'm an organizer with District 1199 Northwest  
20 Service Employees International Union. We're a statewide  
21 hospital and healthcare union, representing over 85,000  
22 healthcare workers in the state of Washington.

23 Our union strongly supports the new ergonomic  
24 rules that the Labor and Industries is proposing. We feel  
25 that these rules will be a great help to reducing the number

1 of injuries our members needlessly suffer on a daily basis.

2 We are working with and encouraging the management  
3 at Providence Mother Joseph Care Center here in Olympia,  
4 where we represent over 200 nursing home workers to  
5 implement many of the changes addressed in the ergonomics  
6 rules proposed. The union and management have already begun  
7 a dialogue about how to reduce the number of injuries  
8 suffered by the staff of this facility.

9 A group of the workers from Mother Joseph's will  
10 tell their stories of why these new ergonomic rules will  
11 have a positive effect on the work they do.

12 Thank you.

13 MR. SPENCER: Thank you.

14 MS. DRESOU: Hi. My name is Catherine Dresow,  
15 spelled D-r-e-s-o-w.

16 I work as a nurse's aid certified at Providence  
17 Mother Joseph Care Center. I'm a member of the District  
18 1199 Northwest Service Employees International Union  
19 Healthcare and Hospital Workers. I work as a nurse's aide  
20 in a nursing home for 15 years.

21 I am on light duty, because I hurt my right arm  
22 when a patient slipped on and fell on the floor, and an LPN  
23 and I tried to pick her up using a gait belt. She weighed  
24 about 235 pounds; and I know because I had weighed her just  
25 the day before.

1                   I didn't realize at the time that a Hoyer lift  
2                   could go all the way to the floor, and we could have used  
3                   that to lift her up off the floor. I had only been trained  
4                   to use them to transfer patients from the bed to the  
5                   wheelchair and from wheelchairs to the bed. At that time,  
6                   we didn't have the sit-and-stand lifts.

7                   In a labor management committee, my coworkers have  
8                   talked to management about the need for more education about  
9                   ergonomics. We also gave them information about  
10                  sit-to-stand lifts, zero lift environment in the ergonomic  
11                  updates provided by the Department of Labor and Industries.  
12                  Management said they heard our concerns and shared them.  
13                  They then bought six of the sit-and-stand lifts and are now  
14                  training us how to use them.

15                  Management has also started a new training program  
16                  to help recruit more staff, and ergonomic education will be  
17                  a part of this program.

18                  I wanted to testify today because if the rule  
19                  changes you are proposing had already been in place, I may  
20                  not have injured myself. I think I can speak for all my  
21                  coworkers when I say we strongly support better ergonomic  
22                  rules.

23                  Thank you.

24                  MR. SPENCER: Thank you.

25                  MS. PATCH: My name is Natalie Patch,

1 P-a-t-c-h. I also work at Mother Joseph Care Center and  
2 belong to 1199.

3 There are three aides here today that are on light  
4 duty because of injuries from lifting patients, and it's not  
5 uncommon to have this many staff just on one unit on light  
6 duty. Right now, there's actually four of us altogether, I  
7 think, just on long-term care.

8 I injured my left shoulder in August initially  
9 when I was helping a 240-pound man off the floor; he fell in  
10 the bathroom. There were no mechanical lifts available at  
11 that time to get him off of the floor. And since then,  
12 they've purchased six sit-and-stand lifts, and that's just  
13 within the last two weeks, so they are aware that there is a  
14 problem, and it does seem that they're trying to do things  
15 to fix it or at least help prevent further injuries.

16 But short-staffing is another problem that we  
17 have. It contributes to a lot of our injuries. People feel  
18 pressure to work beyond their restrictions. Monica Edwards,  
19 one of my coworkers that's here today, she's not getting  
20 better because she does feel the pressure every day to go  
21 beyond her restrictions, from being short-staffed. So she's  
22 not improving the way that she should be.

23 I am. I am also wearing this; it's called a Tens  
24 Unit. I have to have it on all the time to help prevent my  
25 pain, so I don't have to take as many pain medications so I

1 can make it to work, so I'm not groggy, so I can drive my  
2 car.

3 I'm 23 years old, and I've been in this field for  
4 three years, and it's really frustrating that it's  
5 happening. We're all put in difficult positions. How do we  
6 offer good, safe care to our patients without seriously  
7 compromising our own health and safety, because their health  
8 and safety is important; but ours is also. Otherwise, there  
9 would be nobody to care for them.

10 Adequate staffing is essential to prevent the  
11 injuries, and I support the ergonomics rules, and I believe  
12 that they would definitely decrease on-the-job injuries.

13 Thank you.

14 MR. SPENCER: Thank you.

15 Is there anyone else who would like to testify on  
16 the proposed rules at this point?

17 MR. LILE: I'm Keith Lile; that's K-e-i-t-h  
18 L-i-l-e.

19 MR. SPENCER: Could you move the mike up a  
20 little, please?

21 MR. LILE: And I represent Ergonomic  
22 Solutions. It provides ergonomic services for the  
23 prevailing woods industry and that sort of thing for the  
24 last 10 years.

25 The primary concern I have in the course of all of

1       this presentation is that there's no identification of the  
2       productivity output measurements in putting together a cost  
3       benefit analysis. There's so much focus on the injury event  
4       and that sort of thing that in terms of the perception of  
5       the employer, I think it would be a bit more enthusiastic if  
6       there were a way to create a subset of factors that identify  
7       specifically productivity measurements. And I think that's  
8       an important part of ergonomics is that productivity  
9       measurement.

10                   Thank you.

11                   MR. SPENCER: Thank you.

12                   MR. PARKER: I'm Dave Parker with Cardinal CG.

13                   I think the ergonomics rule is a good rule, but it  
14       is not for every industry. As I understand the rule to be,  
15       I would have to oppose right now.

16                   Currently at Cardinal, we have 170 to 180  
17       employees, and the way I read this rule, in order to be in  
18       compliance, we would have to go to full automation out on  
19       the production floor, and that would be costing  
20       approximately 120 jobs.

21                   I believe in protecting the worker and the worker  
22       having a safe place to work, but this rule is not a  
23       realistic rule, especially for the type of industry and at  
24       the plant that I work in. The word "feasible" is in there,  
25       and I think that needs to be more defined in the rule and

1       taken into consideration the dollar amount that it will cost  
2       employers to comply and also the amount of jobs that will be  
3       at stake in order to comply with this rule.

4               That's all I've got. Thank you.

5               MR. SPENCER: Thank you.

6               Is there anyone else who would like and testified  
7       on the proposals at this point?

8               THE AUDIENCE: (No response.)

9

10                       \* \* \* \* \*

11                       C L O S I N G   C O M M E N T S

12               MR. SPENCER: If not, again, I remind you the  
13       written comments, the deadline for sending in your written  
14       comments is 5:00 p.m. on February 14th, 2000.

15               I want to thank all of you who came out to testify  
16       and showed up for the hearing. This hearing is adjourned at  
17       7:45 p.m.

18                       (The hearing ended  
19                       at 7:45 p.m.)

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## 1 C E R T I F I C A T E

2 STATE OF WASHINGTON )  
3 ) ss  
4 COUNTY OF KING )

5 I, PAULA SOMERS, a duly authorized Notary Public  
6 in and for the State of Washington, do hereby certify that  
7 this is a true transcript of the Public Hearing regarding  
8 Ergonomics; that the minutes of said meeting were recorded  
9 in shorthand and later reduced to typewriting; and that the  
10 above and foregoing is a true and correct transcript of said  
11 meeting.

12  
13 I do further certify that I am not a relative of,  
14 employee of, or counsel for either of said parties or  
15 otherwise interested in the event of said proceedings.

16  
17 I HAVE HEREUNTO set my hand and affixed by  
18 official seal this 23rd day of January, 2000.

19  
20  
21  
22 Paula Somers, CSR  
23 NOTARY PUBLIC in and for the  
24 State of Washington, residing at  
Renton.  
My commission expires 9/29/00.

25

